From: Marty Altman
To: Microsoft ATR
Date: 1/28/02 9:49am
Subject: Microsoft Settlement

CC: Marty Altman

Antitrust Division
U.S. Department of Justice
601 D Street NW
Suite 1200
Washington, DC 20530-0001

Dear Sirs,

Pursuant to the Tunney Act, I would very much like to add my voice to the objections over the proposed Microsoft Settlement. I won't belabor the details here, as folks like Dan Kegel (http://www.kegel.com/remedy/remedy2.html) have done an outstanding job with these points. I strongly support his "Open Letter to DOJ Re: Microsoft Settlement" (http://www.kegel.com/remedy/letter.html).

I believe the Proposed Final Judgement is critically flawed in several ways. Perhaps the most objectionable to me is that it doesn't require any fundamental shift in monopolistic attitudes or practices in order for Microsoft to successfully litigate their way to "compliance".

Quoting from Dan Kegel's introduction:

> The Court of Appeals affirmed that Microsoft has a monopoly on Intel-compatible PC operating systems, and that the company's market position is protected by a substantial barrier to entry (p. 15). Furthermore, the Court of Appeals affirmed that Microsoft is liable under Sherman Act § 2 for illegally maintaining its monopoly by imposing licensing restrictions on OEMs, IAPs (Internet Access Providers), ISVs (Independent Software Vendors), and Apple Computer, by requiring ISVs to switch to Microsoft's JVM (Java Virtual Machine), by deceiving Java developers, and by forcing Intel to drop support for cross-platform Java tools.

Clearly Microsoft has exercised monopolistic practices, and the Proposed Final Judgement provides little real relief for the software development, vendor, or end user communities. If nothing else, the definitions for key terms in the settlement are sufficiently narrow to allow Microsoft to employ a long standing tactic of litigating their way to what they feel is a successful end.

Perhaps more subtle there don't seem to be any provisions in the settlement designed to alter, let alone provide substantive punishment for, Microsoft's history and culture of predatory attitudes. Deeply held attitudes will not change themselves- they require a catalyst. In my view, the Proposed Final Judgement has no sting.

Quoting again from Dan Kegel's introduction:

> According to the Court of Appeals ruling, "a remedies decree in an antitrust case must seek to 'unfetter a market from anticompetitive conduct', to 'terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future" (section V.D., p. 99).

I respectfully disagree with Attorney General Ashcroft's assessment that the Proposed Final Judgement would, "end Microsoft's unlawful conduct." In my view, the final judgement should include three principal aspects:

- enough procedural remedy to affect a significant shift in Microsoft's monopolistic business practices,
- enough sting to affect a significant shift in Microsoft's predatory business attitudes, and
- enough compliance machinery to assure both these shifts take place.

I agree with the conclusions stated elsewhere that the Proposed Final Judgement, in its current form, does little to affect Microsoft's monopolistic attitudes and practices, and is therefore not in the public interest. It should

not be adopted without substantial revision.

Thank you for your time,

Marty Altman
Senior Scientist
Science Applications International Corporation
Orlando, Florida

-The opinions expressed herein are my own, and should in no way be interpreted as belonging to SAIC.